

REMARKS

Thorough examination of the application is sincerely appreciated.

Claims 1 - 5, 8, 10 and 11 are pending in the application. Among other things, independent claims are amended to clarify the patentable subject matter of the invention and advance the prosecution of this case. Support for the amended feature is provided on page 3, lines 18 - 20 of the instant specification. No new matter is introduced, and entry of the amendment is respectfully requested.

Claims 1 - 5, 8, 10 and 11 have been rejected under 35 U.S.C. 103 as being unpatentable over U.S. Patent 6,219,540 (Besharat et al) in view of U.S. Patent 5,144,296 (DeLuca et al). Applicants respectfully traverse the rejections for the following reasons.

According to Besharat, a communication device provides an out-of-range battery saving function. In particular, Besharat discloses signal processor 106 that includes a signal quality detector 154 (see col. 2, lines 63 et seq. of the patent). Further according to Besharat, "Once an out-of-range condition is detected by the signal quality detector 154, the out-of-range detection signal 113 is generated which results in the CPU 112 starting an OOR timer 138 and an ASO timer 140 by executing the OOR timer 138 and ASO timer 140 routines. ... The duration of the OOR timer 138 is established by the OOR timer value 150 stored in the EEPROM 144. In

the preferred embodiment of the present invention, the OOR timer value 150 is programmable, and can be set to a predetermined value, such as 4, 6, or 8 minutes, which is sufficient time to ensure the communication device 100 has in fact moved out-of-range of the transmitter 902, rather than into a signal null" (emphasis added; see col. 5, lines 2 - 16, and Fig. 3 of the patent). Clearly, Besharat discloses removing power to the receiver only after the expiration of the timer.

In sharp contrast to Besharat, the present invention includes a feature of "such that the receiver is de-energized substantially immediately without waiting for expiration of any time period", as recited in Applicants' claim 1(emphasis added). Unarguably, Besharat fails to disclose this feature and, in fact, teaches away from the present invention: in Besharat, power cut-off to the receiver is performed only after the expiration of the timer to make sure that the communication device 100 is truly out-of-range.

While Applicants disagree with and traverse the analysis in the Final Office Action that DeLuca supplements Besharat, even if, for the sake of argument, DeLuca does disclose those features of the present invention as asserted in the Final Office Action, DeLuca fails to cure the defect in Besharat by failing to disclose the above feature of the present invention, namely "such that the receiver is de-energized substantially immediately without waiting for expiration of any time period", as recited in Applicants' claim

1" (emphasis added). Withdrawal of the rejection is, therefore, respectfully requested.

Claims 2 and 3 depend from independent claim 1 and thus incorporate novel and non-obvious features thereof, in addition to further limitations. Therefore, claims 2 and 3 are patentably distinguishable over the prior art for at least the same reasons as independent claim 1.

Independent claims 4 and 8, as amended, contain the feature of claim 1 as discussed above. Hence, for at least the same reasons given for claim 1, claims 4 and 8 are believed to be allowable over the prior art of record.

Additionally, Claims 5, 10 and 11 depend from independent claims 4 and 8, and therefore contain the limitations of those claims. Hence, for at least the same reasons given for independent claims hereinabove, dependent claims 5, 10 and 11 are believed to be allowable over the prior art.

In view of the above, it is respectfully submitted that Besharat and DeLuca, whether alone or in combination, do not render obvious the present invention, defined by claims 1 - 5, 8, 10 and 11, because the references fail to teach or suggest all of the features of the present invention, as discussed hereinabove.

Withdrawal of the rejection is, therefore, respectfully requested.

An earnest effort has been made to be fully responsive to the Examiner's correspondence and advance the prosecution of this case.

In view of the above amendments and remarks, it is believed that the present application is in condition for allowance, and an early notice thereof is earnestly solicited. However, if for any reason this application is not considered to be in condition for allowance, the Examiner is respectfully requested to call the undersigned attorney at the number listed below prior to issuing a further Action.

Please charge any additional fees associated with this application to Deposit Account No. 14-1270.

Respectfully submitted,

By Larry Liberchuk
Larry Liberchuk, Reg. No. 40,352
Senior Corporate Counsel
914-333-9602